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20
 21 UNITED STATES DISTRICT COURT
 22 NORTHERN DISTRICT OF CALIFORNIA
 23 SAN FRANCISCO DIVISION

24 PLUMTREE SOFTWARE, INC., a Delaware
 25 corporation,

26 Plaintiff,

27 v.

28 DATAMIZE, L.L.C., a Wyoming limited
 liability corporation,

Defendant.

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 2 MICHAEL B. LEVIN (No. 172329)
 3 CHRISTOPHER R. PARRY (No. 209858)
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11 Attorneys for PLUMTREE SOFTWARE,
 12 INC.

13 No. 04 2777 VRW

14 JOINT STIPULATION AND
 15 [PROPOSED] ORDER TO (1) REALIGN
 16 THE PARTIES, (2) ADD BEA AS A
 17 PARTY, AND (3) EXTEND CERTAIN
 18 DEADLINES

1 Plaintiff and Counter-Defendant Plumtree Software, Inc. (“Plumtree”) and Defendant
 2 and Counter-Claimant Datamize, LLC (“Datamize”) jointly submit this stipulation to:
 3 (1) realign the parties, (2) add BEA Systems, Inc. (“BEA”) as a defendant, and (3) extend
 4 certain deadlines, and in support thereof show as follows:

5 **A. Realignment Of The Parties**

6 The current lawsuit is styled with Plumtree Software, Inc. (“Plumtree”) as the Plaintiff
 7 and Datamize as the Defendant. Plumtree is seeking declaratory judgment that it does not
 8 infringe Datamize’s ’040 and ’418 patents and that the ’040 and ’418 patents are invalid and
 9 unenforceable. Datamize has counterclaimed for infringement. Datamize requests that the
 10 Court realign the parties such that the Datamize is the plaintiff and Plumtree is the
 11 defendant. In *Datamize, LLC v. Plumtree Software, Inc.*, CV02:05693 (VRW)
 12 (“*Plumtree I*”), the Court granted a similar request from Datamize to realign the parties to
 13 make Datamize the plaintiff (Docket No. 32). In view of the Court’s prior order, Plumtree
 14 does not oppose, and agrees to, Datamize’s request.

15 **B. Adding BEA As A Party And Extending Certain Deadlines**

16 Datamize also seeks leave to add BEA as a Defendant in this case. In October 2005,
 17 BEA acquired Plumtree, and Plumtree is now a wholly-owned subsidiary of BEA. Datamize
 18 contends that BEA incorporated Plumtree’s Corporate Portal product into a BEA product
 19 called Aqualogic User Interaction, and that this product infringes the ’040 and ’418 patents.
 20 Datamize also contends that a separate product called WebLogic Portal, which was
 21 developed independently by BEA, also infringes the ’040 and ’418 patents. Allowing
 22 Datamize’s claim against BEA to be joined with its claim against Plumtree would promote
 23 judicial economy, and is more likely to lead to a speedy resolution of all of the disputes
 24 between the parties.

25 Plumtree and BEA do not oppose Datamize’s request provided that the current
 26 schedule is extended to accommodate adding BEA as a party.¹ When the Court set the
 27

28 ¹The parties previously stipulated to, and the Court granted, an extension on the deadlines for
 (continued . . .)

1 current schedule, only Datamize and Plumtree were parties to this action. Datamize's
 2 assertions against BEA include a separate product line that BEA developed independently of
 3 Plumtree, and that was not at issue in the prior *Plumtree I* litigation. In order to account for
 4 BEA being added as a party, the parties will need additional time to conduct and complete
 5 discovery.

6 THEREFORE, the Parties jointly request that the Court:

- 7 1. Realign the parties so that Datamize is the plaintiff and Plumtree is the defendant;
- 8 2. Grant Datamize leave to file the attached amended complaint adding BEA
 Systems, Inc. as a defendant; and
- 10 3. Modify the current Case Management Order to extend the deadlines as follows:

<u>Event:</u>	<u>Date Set by March 6, 2007</u>	<u>Proposed New Date:</u>
<u>Case Management Conference:</u>		
Fact Discovery Cutoff	November 1, 2007	April 7, 2008
Designation of Experts/Reports	November 1, 2007	April 7, 2008
Rebuttal Expert/Report	November 29, 2007	May 5, 2008
Experts Discovery Cutoff	December 31, 2007	June 9, 2008
Pretrial Conference *	Tuesday, January 15, 2008 at 9:00 a.m.	* June 24, 2008 at 9:00 a.m.
Jury Trial (5 days) *	Monday, February 11, 2008 at 8:30 a.m.	* August 18, 2008 at 8:30 a.m.

21 * Subject to the Court's availability

22
 23
 24
 25
 26 (. . . continued)

27 submitting Plumtree's opening claim construction brief and Datamize's reply claim construction
 28 brief. See Docket No. 69. By the present stipulation, the parties are not seeking to further extend
 the deadlines for claim construction briefing, or the date for the claim construction hearing
 (currently scheduled for August 3, 2007).

1 **SO STIPULATED**

2 DATED: July 6, 2007.

3
4 WILSON SONSINI GOODRICH & ROSATI
5 Professional Corporation

6 By: /s/ Michael B. Levin

7 MICHAEL B. LEVIN

8
9 Attorneys for Plaintiff and Counterdefendant
10 PLUMTREE SOFTWARE, INC.

11 HOWARD RICE NEMEROVSKI CANADY
12 FALK & RABKIN, A Professioanl Corporation

13 By: /s/ Jeffrey E. Faucette

14 JEFFREY E. FAUCETTE

15 Attorneys for Defendant and Counterclaimant
16 DATAMIZE, L.L.C.

17 **ATTESTATION**

18 I, Jeffrey E. Faucette, am the ECF User whose identification and password are being used
19 to file this Joint Stipulation and [Proposed] Order to (1) Realign the Parties, (2) Add BEA as
20 a Party, and (3) Extend Certain Deadlines. In compliance with General Order 45.X.B, I
21 hereby attest that Michael B. Levin has concurred in this filing.

22 DATED: July 6, 2007.

23 HOWARD RICE NEMEROVSKI CANADY
24 FALK & RABKIN, A Professioanl Corporation

25 By: /s/ Jeffrey E. Faucette

26 JEFFREY E. FAUCETTE

27 Attorneys for Defendant and Counterclaimant
28 DATAMIZE, L.L.C.

29 **PURSUANT TO STIPULATION, IT IS SO ORDERED**

30 DATED: July 26, 2007

